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INTERNATIONAL CENTRE  
FOR SETTLEMENT OF INVESTMENT DISPUTES

**AMADEUS GROUP**

**and**

**AMADEUS DEVELOPMENT DOOEL**

*Claimants*

**v.**

**REPUBLIC OF NORTH MACEDONIA**

*Respondent*

ICSID Case No. \_\_\_\_\_

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**NOTICE OF ARBITRATION**

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## NOTICE OF ARBITRATION

### **I. Introduction**

1. Amadeus Group and Amadeus Development D.O.O.E.L. (collectively “Amadeus,” the “Investor,” or the “Claimant”) hereby submit this Notice of Arbitration of the following legal dispute with the Republic of North Macedonia (“Macedonia,” the “Republic,” the “Government,” or the “Respondent”) in accordance with Article 7 of the Bilateral Investment Agreement between the Government of the Republic of Albania and the Government of the Republic of North Macedonia (the “BIT”), which entered into force on March 4, 1998.

2. Amadeus hereby elects to proceed with this arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “ICSID Convention”) and the ICSID Rules of Procedure for Arbitration Proceedings (“ICSID Arbitration Rules”), as provided for under Article 7 of the BIT.

### **II. General Nature of the Claim**

3. In 2012, in conformity with the urban plan for the center square of Skopje, the Transport Ministry of the Republic of North Macedonia issued a public tender for companies to construct a commercial, multi-use facility in Skopje. At least three companies bid in the auction. The Amadeus Group was the successful bidder on the land, paying what was at the time a record price per square meter. The winning bid submitted by Amadeus was an “investment” covered by the BIT between North Macedonia and Albania.

4. But from the start, the local government, the Municipality of Centar (the “Municipality”), motivated by political considerations, refused to allow Amadeus Development DOOEL, a wholly owned subsidiary of Amadeus Group, an Albanian company, to build in the center of Skopje. Instead of providing the permit within 15 days as required, the Municipality

took almost two years to issue the permit. And then through multiple decisions and actions, the Municipality directly and indirectly expropriated Amadeus' investment by first stopping all construction, then stopping *just Amadeus*, the only Albanian investor in the Centar square, and then annulling the urban plan all together. Hypocritically, having stopped Amadeus from starting construction, and despite orders from the Macedonian Constitutional Court, Administrative Court, Transport Ministry, and Ombudsman overruling its discriminatory decisions and actions, the Municipality found Amadeus at fault for not starting or finishing construction by its original deadline, revoked its permits and licenses, and took the bond Amadeus was required to put down.

5. In addition, the City of Skopje, without obtaining a building permit or permission from Amadeus, proceeded to place a monument to Mother Teresa on the land of the developer Amadeus. This amounted to usurpation of the private property of Amadeus and unlawful construction on its property.

6. There is no doubt that the Republic of Macedonia failed to satisfy its obligations to Amadeus as an Albanian investor under the Bilateral Investment Treaty. The Municipality admits, in effect, that its decisions were politically motivated.

7. Faced with the expropriation of its investment, Amadeus exhausted local remedies. The Constitutional Court, the highest court in the Republic of North Macedonia, repeatedly found in Amadeus' favor. But the Municipality ignored the Constitutional Court and the Republic did not enforce its own laws to effectuate the Court's decisions or its own laws.

8. Amadeus therefore asks the Tribunal to compensate it for the Republic's breach of the Bilateral Investment Treaty, its expropriation of Amadeus' Investment, its revocation of Amadeus's permits, licenses, and contracts, and the Republic's discriminatory and unfavorable treatment of Amadeus' investment, all in violation of the Bilateral Investment Treaty between the Republic of North Macedonia and Albania and international law.

### **III. Parties to the Arbitration**

#### **A. Claimants**

9. The Amadeus Group was started by Besim Elshani and his wife, Elisabeth Gjoni, in 1997. It has established itself as the leading company in the Balkan countries for the design, distribution, installation and servicing of engine applications, generator sets, and power systems and has performed for the biggest companies and NATO Forces, since its inception. All affiliates of the group are owned by the founders. The Group has expanded into land acquisition and commercial development and maintains a full architectural and engineering staff. In addition, Amadeus fabricates exterior and interior architectural elements and has completed a luxury office and residential building for the Organization for Security and Cooperation in Europe (OSCE) in Prishtina, Kosovo, and has also acquired prime property in Tirana, Albania on which will build a luxury resort hotel and entertainment center under the plate name Sofitel by Amadeus Palace, Tirana-Albania.

10. Amadeus Group is a multinational company that has invested for the past twenty-five to thirty years in France and the Balkans through companies based in Albania, Kosovo, and North Macedonia. Amadeus Group builds, develops, and expands physical infrastructure in a variety of industries and subsectors, such as telecommunications, luxury hotels, residential developments, restaurants, boutique shopping, industrial facilities, and other similar and related areas.

11. The Amadeus Group JSC Tirana, seated in Municipal Unit No.11, Ruga e Duresit, Ish – Pularia, Lapraka, Tirana, the Republic of Albania, is a joint-stock company established under Albanian law and is registered in the National Business Centre of the Republic of Albania under No. J72118005P.

12. As required for its investment in the Republic of Macedonia, Amadeus Group founded Amadeus Development DOOEL (“Amadeus Development”) as a local Macedonian entity, with the Amadeus Group as the sole member and owner of the company. Amadeus Development would be primarily responsible for construction of the commercial building, including a hotel, in the city of Skopje. The permit also required the construction of a set of steps outside the land that was acquired by Amadeus, which came to be known as the “Spanish Steps.”

13. Amadeus Development DOOEL, with offices at No. 8 Partizanski Odredi Blvd, Gradski Zid, Tower 26, Skopje, Republic of North Macedonia, was established under the laws of the Republic of North Macedonia and is registered in the national business registry at the Central Registry of the Republic of North Macedonia under business identification number (BIN) 6904890. Amadeus Development is funded by capital from the Republic of Albania.

14. Both Amadeus parties are represented in this arbitration by:

Law Office of Bart S Fisher  
700 12th Street NW Suite 700  
Washington, DC 20005, USA  
Email: [bart\\_fisher2002@yahoo.com](mailto:bart_fisher2002@yahoo.com)  
Telephone: (202) 746 7089  
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And

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1717 Pennsylvania Avenue, NW, Suite 1025  
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And

Gjorgi Donovski, Attorney-at-Law,  
No. 8 Partizanski Odredi Blvd, Gradski Zid, Tower 26,  
Skopje, Republic of North Macedonia  
E-mail: [advokat\\_donovski@t.mk](mailto:advokat_donovski@t.mk)  
Telephone: +389(0)76/485-844

All communications to the Claimants in this Arbitration should be made to the Law Office of Bart S. Fisher at the above-referenced address, attention: Bart S. Fisher.

**B. Respondent**

15. The Respondent in this arbitration is the Republic of North Macedonia, a sovereign state. For purposes of disputes under the Bilateral Investment Treaty, the Republic of North Macedonia is represented by:

Government of the Republic of North Macedonia  
No. 18, Goce Delchev Blvd,  
Skopje, 1000

**IV. Factual Basis for the Claim**

16. In the Fall of 2013, the Transport Ministry of the Republic of Macedonia (the “Transport Ministry”) released plans that called for the construction of a commercial facility, which would include a hotel, restaurants, shopping boutiques, and other commercial spaces. The Transport Ministry put out a public tender for companies to purchase the land for and build the commercial complex planned by the Ministry, and to operate that complex into the future.<sup>1</sup>

17. Amadeus, along with at least two other companies – one Macedonian and one Bulgarian, answered the tender from the Transport Ministry for bids to build the commercial complex in October 2013. Amadeus, working through its local entity, Amadeus Development, purchased the land (the “Property”) from the Ministry of Transport after winning the electronic public bidding procedure held by the Ministry of Transport on October 15, 2013. The commercial complex would become a centerpiece in the Detailed Urban Plan for development of the “Small Ring” in the Central City Area (“2012 Urban Plan”).<sup>2</sup>

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<sup>1</sup> C-1, Macedonia Plans ‘Spanish Steps’ for Capital Square, Balkan Insight (13 Sept. 2013).

<sup>2</sup> C-2, *Excerpt from Plan n° 2609/2012 Detailed Urban Plan “Small Ring”* (28 Dec. 2012).



18. Amadeus obtained financing and paid the bid price plus taxes and fees levied by the state. The fees for the project included an initial infrastructure fee for the setup of utilities, electricity, sewer, and water. That fee was split sixty percent to the City of Skopje, forty percent to the Municipality of Centar.

19. In support of their successful bid, Amadeus negotiated term sheets and contracts with multiple well-regarded U.S. companies such as Peninsula Pacific and those from other nationalities, including top international brands, to operate the hotel, the gaming, the restaurants, and other aspects of the commercial complex.

20. Amadeus almost immediately submitted the necessary project documents and architectural plans. According to Macedonian law, the Municipality was required to give Amadeus the necessary permits within 15 days of receiving the project documents and plans.

21. But, instead of providing the permits within 15 days as required by law, the local government issued the necessary building permits almost two years later.<sup>3</sup> This would ultimately become the first step in the Municipality's expropriation of Amadeus's Investment.

**A. The Municipality discriminatorily bans Amadeus from starting construction.**

22. Despite the fact that the Municipality issued the initial building permit in July 2015, its other official decisions thwarted development at every turn. First, from May 23, 2015, to September 30, 2015, the Municipality put a moratorium on construction.<sup>4</sup> Shortly thereafter, a

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<sup>3</sup> C-3, Municipal Coat of Arms, *Building Permit UPI No. 28-597/2014*, (28 July 2015).

<sup>4</sup> C-4, Council of the Municipality of Centar, *Decision n°08-3361/2 to determine a time period over the course of the calendar year in which buildings shall be banned from being constructed i.e., construction works to be performed across the territory of the municipality of Centar Skopje*, (23 May 2015).

second Decision specifically prohibited Amadeus' construction of its hotel and commercial building starting December 31, 2015.<sup>5</sup>

23. Andrej Zhernovski, Centar's mayor at the time, made the political motivation behind these decisions clear. On numerous occasions the mayor announced that he would never allow Amadeus Development, the only Albanian investor in the square, to build or operate a business in Centar.

We will wage a serious battle over the "Spanish Steps" ... I said even then that I would not give approval, in some way I sent a message to the developer that no construction approval would be given by the Municipality of Centar. I say this because I will always prevent construction.<sup>6</sup>

... the investor should know that he cannot get an approval, a permit from the Municipality of Centar, I think I have said that several times and I confirm it here once again in a common name very clearly and very loudly ... we will continue the battle.<sup>7</sup>

24. At the same time that the Municipality was obstructing and ultimately expropriating Amadeus's investment, the Municipality allowed the construction of a Marriott hotel on the other side of the center square.<sup>8</sup>

## **B. Decision annulling the Urban Plan**

25. The Municipality of Centar further intentionally obstructed Amadeus' Investment on 22 March 2017 when it annulled the 2012 Urban Plan on which Amadeus' Building Permit was

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<sup>5</sup> C-5, Council of the Municipality of Centar, *Decision n° 08-5522/2 to determine a time period over the course of the calendar year in which buildings shall be banned from being constructed i.e., construction works to be performed across the territory of the municipality of Centar Skopje* (6 Oct. 2015).

<sup>6</sup> C-6, Transcript Andrej Zernovski Press One.

<sup>7</sup> C-7, Transcript Andrej Zernovski Press two.

<sup>8</sup> C-8, Work on First Marriott Hotel Begins in Macedonia, *Balkan Insight* (28 June 2011).

originally issued.<sup>9</sup> Annuling the 2012 Urban Plan resulted in the entry into force of the previous Detailed Urban Plan for the Central City Area of the City of Skopje that did not include Amadeus's construction project.<sup>10</sup> On December 28, 2017, the Municipality of Centar further ratified its annulment of the 2012 Urban Plan on which Amadeus's investment depended.<sup>11</sup> By annulling the 2012 Urban Plan, the Council of the Municipality of Centar made it impossible for Amadeus to exercise its property rights and to realize its investment and thereby indirectly expropriated Amadeus's Property, Investment, and lawfully acquired rights.

### **C. The First Constitutional Court Decision**

26. Amadeus filed a complaint with the Constitutional Court of the Republic of Macedonia against the actions of the Council of the Municipality of Centar.<sup>12</sup> The Constitutional Court found the Municipality's actions unconstitutional and annulled all of the Municipality's expropriating decisions related to Amadeus's investment. The Constitutional Court held that the Municipality did not have the authority to annul plans they had previously adopted and on which investors depended.<sup>13</sup>

27. Under Article 112 of the Republic of North Macedonia's Constitution, the Constitutional Court's rulings are final and self executing.

The Constitutional Court shall repeal or invalidate a law if it determines that the law does not conform to the Constitution. The

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<sup>9</sup> C-9, Council of the Municipality of Centar, *Decision n°08-4160/32 to annul the Decision Adopting Amendments to the Detailed Urban Plan for Central City Area of The City of Skopje – Small Ring Municipality of Centar - Skopje No. 07-9816/8 dated 21 December 2012* (22 Mar. 2017).

<sup>10</sup> C-9, *Decision*, Art. 5.

<sup>11</sup> C-10, Council of the Municipality of Centar, *Decision No. 08-5371/2 for cessation of the implementation of detailed urban plan*, (27 Dec. 2017).

<sup>12</sup> C-11, Complaint to the Constitutional Court of the Republic of Macedonia against Decision n°08-4160/32 of the Council of the Municipality of Centar dated 22 March 2017 to annul the Decision Adopting Amendments to the Detailed Urban Plan for Central City Area of The City Of Skopje – Small Ring Municipality of Centar - Skopje No. 07-9816/8 dated 21 December 2012.

<sup>13</sup> C-12, Constitutional Court of the Republic of Macedonia, *Decision U. No. 36/2017*, (31 Jan. 2018).

Constitutional Court shall repeal or invalidate a collective agreement, other regulation or enactment, statute or programme of a political party or association, if it determines that the same does not conform to the Constitution or law. The decisions of the Constitutional Court are final and executive.<sup>14</sup>

28. Furthermore, Article 81 Section 2 of the Rules of Procedure of the Constitutional Court mandate that the government, in this case the Council of the Municipality of Centar, must remove the consequences of any overruled decision by reinstating the previous state of affairs.

If by changing the individual act with respect to paragraph 1 of this article, the consequences from applying the law, regulation or the common act which by a decision of the Constitutional court is revoked, can not be eliminated, the Court may determine the consequences to be eliminated by their returning in the previous condition, with a compensation of damage or in another way.<sup>15</sup>

29. As a result of the Constitutional Court's decision<sup>16</sup>, the Municipality of Centar was obligated to amend Amadeus's Building Permit<sup>17</sup> to allow Amadeus to start construction of its commercial building and hotel. It did not.

**D. The Municipality of Centar refuses to obey the Constitutional Court's mandate.**

30. The Municipality of Centar refused to follow the Constitutional Court's order. Local newspapers reported that the Municipality of Centar took the position that it was not bound to follow the Constitutional Court's decision and that that decision would not change anything because they had imposed a moratorium on construction across the entirety of Centar.<sup>18</sup>

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<sup>14</sup> CLA-2, Constitution of Republic of North Macedonia 1991 with Amendments from 2011, Article 112.

<sup>15</sup> CLA-3, Rules of Procedure of the Constitutional Court of the Republic of Macedonia, Article 81.

<sup>16</sup> C-9, Council of the Municipality of Centar, *Decision n°08-4160/32 to annul the Decision Adopting Amendments to the Detailed Urban Plan for Central City Area of The City of Skopje – Small Ring Municipality of Centar - Skopje No. 07-9816/8 dated 21 December 2012 (22 Mar. 2017)*.

<sup>17</sup> C-3, Building Permit *UPI No. 28-597/2014* (28 July 2015).

<sup>18</sup> C-13, Sakam Da Kazham, *Constitutional Court Annuls Centar Municipality Decision to Erase Spanish Steps from Square*, Reporter Network Untold Stories, sdk.mk (25 Jan. 2018); C-14, *Spanish Steps Not to Be Built by March Even After Constitutional Court Decision on "Small Ring"*, makfax.com.mk (25 Jan. 2018).

31. Indeed, a few days after the Constitutional Court issued its final and binding decision, the Municipality of Centar pronounced null and void Amadeus's building permit issued by the Mayor of the Municipality of Centar.<sup>19</sup> As explanation for its actions, the Municipality of Centar stated that because no construction had begun, and therefore no construction had been completed within two years from the issuance of the building permit, that building permit was cancelled. What the Municipality did not recognize though was that its previous actions, now all overturned by the Constitutional Court, had prevented Amadeus from beginning construction work.

32. Amadeus filed a written request with the Municipality of Centar requesting that the Municipality implement the Constitutional Court's Decision, reverse the consequences of the Municipality's unconstitutional and illegal actions, reinstate the previous urban plan and building permit, and extend the deadline for the start of construction.<sup>20</sup> Amadeus explained in detail that construction had not started because that construction was banned by the Municipality itself.

33. One week later, on February 23, 2018, Amadeus requested the annulment of the Municipality's decision pronouncing the building permit null and void.<sup>21</sup>

34. Amadeus subsequently filed seven additional requests for urgent relief asking the Municipality of Centar to enforce the Constitutional Court's decision, noting that refusing to do so could result in civil and criminal liability.<sup>22</sup> As of the filing of this Notice the Municipality of Centar has failed to respond to any of the requests submitted by Amadeus.

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<sup>19</sup> C-15, Mayor of the Municipality of Centar, *Decision n° 09-841/1* (9 Feb. 2018).

<sup>20</sup> C-16, Letter from Amadeus Development to Municipality of Centar, *Request for the Enforcement of Decision U. No. 36/2017 dated 31 January 2018 (C-10) reinstating earlier status and extending deadline* (14 Feb. 2018).

<sup>21</sup> C-17, Letter from Amadeus Development to Municipality of Centar, *Request for the Annulment of Decision No. 09/841/1 of the Mayor of the Municipality of Centar dated 9 February 2018*, in accordance with Decision of the Constitutional Court No. 36/2017 dated 31 January 2018 (23 Feb. 2018).

<sup>22</sup> C-18, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (28 Feb. 2018); C-19, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (28 Feb. 2018); C-20, Letter

35. Amadeus was dissatisfied with the Municipality's inaction. Amadeus filed an appeal with the Transport Ministry against the Municipality's Decision annulling the building permit. The Transport Ministry rejected the appeal as unfounded.<sup>23</sup>

36. Amadeus then filed a lawsuit against the Transport Ministry before the Administrative Court of the Republic of Macedonia. The Administrative Court upheld Amadeus's appeal, reversing the Decision of the Transport Ministry.<sup>24</sup>

37. Acting upon the Judgment of the Administrative Court, the Transport Ministry then upheld Amadeus's position and reversed the Municipality's decision annulling the building permit.<sup>25</sup>

38. The Municipality of Centar ignored the Constitutional Court's Decision, the Administrative Court's Order, and the Transport Ministry's directive and re-declared the Building Permit null and void on May 12, 2020.<sup>26</sup>

39. The Mayor of the Municipality of Centar reiterated its discriminatory motivations. For example, in an official statement the mayor declared that, despite the decision of the Constitutional Court, the local government would not change its actions.<sup>27</sup>

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from Amadeus Development to Municipality of Centar, *Request for urgency* (6 Mar. 2018); C-21, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (13 Mar. 2018); C-22, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (13 Mar. 2018); C-23, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (30 Mar. 2018); C-24, Letter from Amadeus Development to Municipality of Centar, *Request for urgency* (12 Apr. 2018)

<sup>23</sup> C-25, Ministry of Transport and Communication of the Republic of North Macedonia, *Decision UP 2 No. 35-133/2018* (26 June 2018).

<sup>24</sup> C-26, Administrative Court of the Republic of North Macedonia, *Judgment U-3 No. 482/2018* (20 Feb. 2020).

<sup>25</sup> C-27, Ministry of Transport and Communication of the Republic of North Macedonia, *Decision UP2 No. 35 - 133/2018 reversing Decision No. 09-841/1 of the Mayor of the Municipality of Centar dated February 9, 2018* (3 Apr. 2020).

<sup>26</sup> C-28, Mayor of the Municipality of Centar, *Decision No. 09-2214/1 pronouncing building permit UP 1 No. 28 - 597/14 dated 28 July 2015 to be null and void* (12 May 2020)

<sup>27</sup> C-29, Transcript of Statement by Mayor Shilegov.

Journalist: Is it true that the highest courts have made decisions in favor of the owner, and none of it has been implemented?

Mayor Shilegov: None of that is true, it is not true.

This land has never been handed over to the so-called owners, so since they don't have the possession they can't even fence it, let them try to fence it and see what they find. ...

... for me the priority is to protect the public space, especially this one called the square of the City of Skopje, ... I will do everything to protect the square.<sup>28</sup>

40. Even though the Municipality's decision was declared illegal by the Transport Ministry, the State failed to ensure legal certainty by implementing the decisions of the Administrative Court of the Republic of North Macedonia, thereby failing to protect the legitimate rights and expectations of Amadeus within the limits of procedural and substantive laws, as well as the rights of Amadeus as guaranteed by the BIT between the Republic of North Macedonia and the Republic of Albania.

#### **E. The Municipality halts implementation of the 2012 Urban Plan**

41. The Municipality adopted six subsequent decisions for the cessation of the implementation of urban plans.<sup>29</sup>

42. The Constitutional Court issued a temporary measure on March 20, 2019, suspending the execution of the above mentioned six decisions of the Municipality of Centar.<sup>30</sup> Nevertheless, once again, the Mayor of the Municipality of Centar, Sasha Bogdanovic, officially stated that they would not give up on the moratorium on construction.<sup>31</sup> In complete disregard of

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<sup>28</sup> C-29, Transcript of Statement by Mayor Shilegov.

<sup>29</sup> C-30, Council of the Municipality of Centar, Decision No. 08-1150/4, (6 Mar. 2018); C-31, Decision No. 08-2034/4 (26 Apr. 2018); C-32, Decision No. 08-2774/4 (14 June 2018); C-33, Decision No. 08-3799/2 (21 Aug. 2018); C-34, Decision No. 08-5438/12 (13 Dec. 2018).

<sup>30</sup> C-35, Constitutional Court of the Republic of Macedonia, *Decision U. No. 28/2019* (20 Mar. 2019).

<sup>31</sup> C-36, Statement by and Photographs of Mayor of the Municipality of Centar, Sasha Bogdanovic.

the decision of the Constitutional Court, on March 27, 2019, the Council of the Municipality applied new detailed urban plans that again prevented Amadeus from starting construction.<sup>32</sup>

43. Amadeus appealed the Municipality's actions to the Constitutional Court, asking it to assess the constitutionality and legality of the Municipality of Centar's 27 March 2019 Decision on application of new urban plans.<sup>33</sup> The Constitutional Court overruled the Municipality's decision adopting new, discriminatory urban plans, and invalidated the decisions on the Cessation of Implementation of Urban Plans.<sup>34</sup>

44. As of the filing of this Notice the Municipality of Centar has failed to implement the Constitutional Court's decision.

45. The Municipality of Centar's actions, refusal to follow the Constitutional Court, and refusal to obey the Transport Ministry significantly infringed Amadeus's legal security, which is contrary to the constitutional order, as protected by Article 8 Section 1 line 3 of the Constitution pertaining to the rule of law.

The fundamental values of the constitutional order of the Republic of Macedonia are: the rule of law.<sup>35</sup>

46. Under Article 51 of the Constitution, laws must be in accordance with the Constitution.

In the Republic of Macedonia laws shall be in accordance with the Constitution and all other regulations shall be in accordance with the Constitution and the laws. Everyone is obliged to respect the Constitution and the laws".<sup>36</sup>

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<sup>32</sup> C-38, Council of the Municipality of Centar, *Decision No. 08-1859/2 for the Application of Detailed Urban Plans* (27 Mar. 2019).

<sup>33</sup> C-39, Constitutional Court of the Republic of Macedonia, *Resolution U.No.273/20* (16 Dec. 2020)

<sup>34</sup> C-40, Constitutional Court of the Republic of Macedonia, *Decision U. No. 273/2020-1* (3 Mar. 2021).

<sup>35</sup> CLA-2, Constitution of Republic of North Macedonia 1991 with Amendments from 2011, Article 8.

<sup>36</sup> *Id.* at Article 51.



47. The Municipality of Centar also breached Article 30 section 1 and 3 of the Republic of Macedonia's Constitution.

The rights to property and the right to inheritance are guaranteed. ... None may be deprived or limited of his/her property, or of the rights deriving from it, except in the public interest determined by law.<sup>37</sup>

**F. The Municipality has used Amadeus's Property as its own and has built a variety of structures without Amadeus's consent.**

48. Not satisfied with preventing Amadeus from constructing the commercial complex, the Municipality also built a variety of structures without Amadeus' consent. Installations of temporary structures and urban equipment are supposed to be regulated by Chapter 11 of the Law on Construction of the Republic of North Macedonia. Under Article 79 section 1, temporary structures can be installed only on land that is the property of the Republic of North Macedonia.

The municipalities in the City of Skopje shall adopt an annual program for setting up temporary facilities that defines the space where the temporary facilities may be set up, that should be a non-built-up construction land, in ownership of the Republic of Macedonia, with built infrastructure, and for which urban planning documentation has been adopted.<sup>38</sup>

49. During the winter of 2019-2020, the mayor of the city of Skopje installed on Amadeus's Property an amusement park named "Winter Land".<sup>39</sup> This installation, built without Amadeus's consent, violated Amadeus's property rights and its right to be treated fairly under the law.

50. Similarly, in April and May 2020, the Municipality of Centar and the City of Skopje placed horticultural arrangements on Amadeus's Property, again, without any approval from Amadeus.

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<sup>37</sup> *Id.* at Article 30.

<sup>38</sup> CLA-4, Law on Construction, Article 79; *id.* at Article 80.

<sup>39</sup> C-41, Transcript of Promotion of "Winter Land."

51. In August of 2020, a pedestal and a memorial site honoring Mother Teresa were erected on Amadeus's land without consent under the supervision of the City of Skopje.

52. The Municipality of Centar is unabashedly using Amadeus's expropriated Property as if it were its own. In a press conference, the mayor of Skopje stated:

... this space [i.e., Amadeus's property] is a public space and can be used as such because it does not guarantee you the right to property or it does not guarantee you or it is above the public interest, or it is above the public space, which has always been, they have never received this in possession.

**G. The National Ombudsman investigated and concluded that the Municipality breached the Constitution; the Municipality continues to shirk its obligations.**

53. The Ombudsman of the Republic of North Macedonia, the government body mandated to protect civil and human rights, conducted an investigation and concluded that the Municipality had committed a major breach of core constitutional and social principles.<sup>40</sup> The Ombudsman found that Amadeus's Building Permit was valid. The Ombudsman further found that the Municipality of Centar's decisions, especially those declaring the building permit null and void, were erroneous.

54. The Ombudsman also established that, in the period following the expiration deadline for the validity of the building permit, Amadeus had not been afforded the legal possibility to start construction activities due to several decisions preventing Amadeus from starting construction. Indeed, the Ombudsman found, Amadeus had not started construction because Amadeus had complied with the decisions of the Municipality of Centar.

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<sup>40</sup> C-42, Republic of Macedonia Ombudsman, *Notification for initiating a procedure*.

55. The Ombudsman also deemed those decisions declaring a moratorium on building in Skopje legally unsupported and found that they violated the rights of all legal and natural persons who had been prevented from freely exercising their property rights.

56. Further, the Ombudsman declared what should have been well accepted, *i.e.*, that the Constitutional Court's decisions have undisputed authority and required all entities to follow their mandates.

57. To satisfy its mandate, the Ombudsman requested the Transport Ministry to review the legality of the decisions of the Municipality of Centar. The Ombudsman reminded the Ministry that in reviewing the merits of the Municipality of Centar's decisions, failure to implement the Constitutional Court's decisions would constitute a violation of the Republic's basic constitutional and legal principles.

#### **H. The Municipality of Centar has repeatedly made threats against Amadeus.**

58. Mayor Bogdanovic in an interview explained that the Municipality of Centar:

started a big job ... stopping the approvals for constructions, *i.e.*, introducing the so-called, popularly called "moratorium". It was all in order to revise, to correct the plans that were adopted in the past period, which destroyed the city center, it is a work that is long, it is being worked on in a long phase, because there are really many mistakes that have been made and it takes time to correct the procedure itself when carrying the plans, it takes time.<sup>41</sup>

59. Officials of the local government have publicly threatened Amadeus. For the Republic, regardless of the Constitutional and Administrative courts' decisions, the legal and constitutional rights of Amadeus have not been guaranteed. Following the Administrative Court's judgement<sup>42</sup>, the Mayor of the Municipality of Centar, Mr. Sasha Bogdanovikj, the Mayor of the

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<sup>41</sup> C-37, Transcript of interview with Sasha Bogdanovic.

<sup>42</sup> C-26, Administrative Court of the Republic of North Macedonia, *Judgment U-3 No. 482/2018* (20 Feb. 2020).

City of Skopje, Mr. Petre Shilegov, and the President of the Council of the Municipality of Centar, Ms. Cvetank, held a press conference to discuss Amadeus and its construction project.

60. Mayor Shilegov told the journalists, who had been invited by the Mayor of the city of Skopje and the Mayor of the Municipality of Centar, that:

as long as I am the mayor, together with the Mayor of the Municipality of Centar, we will make sure that this space remains a public space, I, together with the Mayor, together with the entire political structure that we represent, will stand in defense and will not allow a building to be built here ... I call on the competent institutions, the public prosecutor's office and the public attorney's office to finally rise to the top of their duties and protect this space in order to cancel the sale and return the ownership to where it belongs, to the City of Skopje...This land has never been handed over to the so-called owners, so since they don't have the possession, they can't even fence it, let them try to fence it and see what they find ... I have made a personal political decision not to allow building an object here as long as I am mayor.<sup>43</sup>

61. Local government officials have only fanned the flames of discrimination against Amadeus and were a part of the Municipality blocking Amadeus from starting construction. Mayor Bogdanovic declared that:

We managed to stop Skopje 2014 with the "Spanish Steps" with which the council made decisions and thereby block the construction work, but it does not stop here, our goal is to return it to its original state until the end, i.e., that plot of land to be returned in the interested of the citizens ...<sup>44</sup>

62. In another interview, Mayor Bogdanovic gave a similar speech saying that:

Yes, in the past period, we, as the council of the municipality of Centar, managed to fight against the construction of the Spanish Steps," but we are not finished here, we need to finish the job, to

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<sup>43</sup> C-29, Transcript of Statement by Mayor Shilegov.

<sup>44</sup> C-43, Transcript of interview with Sasha Bogdanovic.

return that plot to its original state...that is, to be in the interest of the citizens, let the citizens decide for the central city area.<sup>45</sup>

63. The Municipality's public statements are direct evidence of the conscious, discriminatory efforts to avoid and not implement the decisions of the Constitutional and Administrative courts of the Republic of North Macedonia as well as the higher bodies of the state such as the Transport Ministry of the Republic of North Macedonia.

## **V. Jurisdiction and Admissibility**

64. The arbitral tribunal to be constituted under the Albania-Macedonia BIT has jurisdiction over Amadeus's claim that Macedonia has breached the BIT.

### **A. Amadeus is an Investor in the Republic of Macedonia with a covered Investment.**

65. The BIT includes the following relevant definitions:

1. "Investment" means every kind of asset that is invested by investors of either Party in the territory of the other Party, in accordance with laws and provisions of this Party. In particular, though not exclusively, the term "Investment" means:

a) movable and immovable property, guaranties and property rights such as the rights of services, mortgages and other rights in accordance with the laws;

b) shares in stock and other securities and any other form of interests in a company;

c) claims to money or to any performance under contract having an economical value and accompanied by an investment.<sup>46</sup>

The term "Investor" means every physical or legal person invested by investors of either Party in the territory of the other Party:

a) physical persons having the nationality of that Contracting Party in accordance with its law;

b) legal entities, including companies, associations, partnerships, corporations, and any other organizations incorporated or

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<sup>45</sup> C-44, Transcript of interview with Sasha Bogdanovic.

<sup>46</sup> CLA-1, BIT Art. 1 ("Definitions").

constituted or otherwise duly organized under the law and regulations of one Party having its seat in the territory of that Party.<sup>47</sup>

The term “returns” means the amounts yielded by an investment and includes, in particular although not exclusively, profit, dividends, interest, capital gains, royalties and fees.<sup>48</sup>

66. The Amadeus Group is a joint-stock company established under Albanian law and as such is an Investor of a Contracting Party, i.e., Albania.

67. The Amadeus Group wholly owns Amadeus Development DOOEL.

68. Amadeus, through Amadeus Development DOOEL, purchased a vacant construction lot in Skopje, Macedonia, through the Construction Lot Expropriation Agreement dated 11 November 2013. This real property purchase and ownership constitutes a protected investment under Article 1 of the BIT.

**B. Amadeus’s Claim is Admissible**

69. Amadeus brings a claim that Macedonia has breached its obligations under Articles 2, 3, and 4 of the Bilateral Investment Treaty between Albania and the Republic of Macedonia and that Amadeus has incurred loss or damage as a result of that breach. Amadeus’s claim therefore satisfies the substantive requirements of the BIT.

70. Amadeus has also satisfied the procedural preconditions for arbitrating claims under the BIT as set forth in Article 7 of the BIT. *See supra* § VI.B.

**C. Consent and Waiver**

71. Macedonia consented to resolution of disputes between investors of Albania and Macedonia pursuant to Article 7 of the BIT.

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<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

72. By virtue of submitting this Notice of Arbitration, Amadeus hereby consents to arbitration under the ICSID Convention and ICSID Arbitration Rules.

## **VI. Procedural Requirements**

### **A. Amadeus Exercises its Right to Commence Arbitration Under the ICSID Convention and the ICSID Arbitration Rules**

73. Both Albania and the Republic of North Macedonia are parties to the ICSID Convention.<sup>49</sup> The legal dispute at issue arises directly out of Amadeus's investment in the Republic of North Macedonia. Amadeus therefore exercises its right to submit its claim under the ICSID Convention and the ICSID Arbitration Rules in accordance with Article 7 of the Albania-Macedonia BIT.<sup>50</sup>

### **B. Notice and Time Requirements**

74. To submit a claim under the Albania-Macedonia BIT, the investor, Amadeus, must submit notice of the dispute in writing, including detailed information, to the sovereign party to the investment treaty, here the Republic of North Macedonia. BIT, Article 7. If the dispute is not resolved within six months, the dispute shall be submitted, at the choice of the investor, to International Center for Settlement of Investment Disputes. Amadeus has satisfied this requirement.

75. Amadeus submitted a Notification of the Rise of an Investment Related Dispute ("Notice"), which was stamped as received by the Government of the Republic of North Macedonia on 12 February 2021.<sup>51</sup> This Notice included detailed information as to the basis of

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<sup>49</sup> See ICSID, List of Contracting States and Other Signatories of the Convention (indicating that Republic of North Macedonia signed the ICSID Convention on Sept. 16, 1998 with the Convention entering into force on Nov. 26, 1998; and that Albania signed the ICSID Convention on Oct. 15, 1991 with the Convention entering into force on Nov. 14, 1991), available at <https://icsid.worldbank.org/about/member-states/database-of-member-states> (last visited May 15, 2023).

<sup>50</sup> See CLA-1, Albania-Macedonia BIT.

<sup>51</sup> See C-45, Notification of the Rise of an Investment Related Dispute (12 Feb. 2021).

Amadeus's claims. Macedonia confirmed receipt of the Notice on 11 March 2021 and informed Amadeus that it had passed the Notice on to the Municipality of Centar.<sup>52</sup> No corrective actions were taken, and, accordingly, this dispute remains unresolved.

**C. Applicable Arbitration Rules**

76. Article Seven of the Albania-Macedonia BIT allows the investor to elect arbitration under the UNCITRAL Arbitration Rules or resolution by the International Center for Settlement of Investment Disputes (ICSID).

77. Amadeus elects to proceed before ICSID pursuant to the ICSID Arbitration Rules (2022).

**D. Constitution of the Arbitral Tribunal**

78. Under the ICSID Arbitration Rules, Rule 16 and ICSID Convention Article 37(2)(b):

Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties

ICSID Conv. Art. 37(2)(b); ICSID Rule 16. As the parties have not otherwise agreed to the number and appointment of the arbitrators, these default provisions remain applicable.

**E. Language of the Arbitration**

79. English, Spanish, and French are the official languages of the Centre. Admin, & Fin. Reg. 34(1). The BIT does not include any agreement by the contracting states and the parties have reached no other agreement as to the procedural language. Amadeus proposes English as the procedural language of the arbitration.

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<sup>52</sup> See C-46, Response from Macedonia re Notice (11 Mar. 2021).



## **VII. Breach of the Bilateral Investment Treaty**

80. Macedonia has breached its obligations under Articles 2, 3, and 4, the Macedonia-Albania BIT and Amadeus has incurred significant losses as a consequence of that breach.

### **A. The Republic of Macedonia has violated Article 2**

81. Article 2 of the BIT provides:

1. Each Contracting Party shall in its territory promote, as far as possible, investments by investors of the other Contracting Party and admit such investments in accordance with its legislation.

2. When a Party shall have admitted an investment in its territory, it shall, in accordance with its laws and regulations, grant the necessary permits in connections with such an investment and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance. Each Contracting Party, according to their needs, will ensure permissions for the advisors or for the other qualified persons with foreign nationality.<sup>53</sup>

82. In deciding to invest in Macedonia, Amadeus reasonably relied upon the regulatory regime established by the Law and its Regulations. Amadeus reasonably expected and relied on the expectation that the Republic would conform with its national and international obligations and grant the necessary permits and follow its own urban plan to allow Amadeus' Investment. Instead, the Republic annulled or revoked those permits and plans without legitimate cause, thus breaching Article 2 of the BIT.

### **B. The Republic of Macedonia has violated Article 3**

83. Article 3 of the BIT provides in relevant part:

1. Neither Contracting Party shall ensure the investments of the other Contracting Party, according to its provisions and shall not treat them with discriminatory and less favorable measures in

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<sup>53</sup> See CLA-1, Albania-Macedonia BIT.

management, maintenance, usage, extension, sale and liquidation of this investment if it is possible.<sup>54</sup>

2. Neither Contracting Party shall subject investors of the other Contracting Party, as regards their activity in connection with investments in its territory, to treatment less favorable than that which it accords to its own investors or to investors or any third State, which enjoy the statue of most favorite nation.

84. Macedonia's actions constitute a violation of the international minimum standard, including the obligations of fair and equitable treatment and full protection and security, in clear contravention of Article 3 of the BIT. Macedonia's actions were arbitrary, grossly unfair, unjust and idiosyncratic, were discriminatory and exposed the claimant to sectional or racial prejudice, and involved a lack of due process leading to an outcome that offends judicial propriety.

85. Macedonia, acting through the Municipality of Centar, the City of Skopje, and the State Attorney's Office, has refused to abide by the Law and its Regulations and has cast aside and fundamentally altered the regulatory system it had established precisely for the purpose of attracting foreign investment. It has done so in an arbitrary, unfair, and targeted manner.

86. Examples of Macedonia's conduct that violate Article 3 include, but are not limited to:

- a. Revocation of a validly issued building permit for discriminatory reasons;
- b. Annulling the urban plan that allowed for construction of Amadeus's commercial complex, i.e., the Investment;
- c. The Municipality of Centar's failure to follow the decisions of the Constitutional Court and the Republic's resulting failure to enforce its own laws and constitution;
- d. The Municipality of Centar's failure to follow the decisions of the Administrative Court and the Republic's resulting failure to enforce its own laws and constitution;

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<sup>54</sup> See CLA-1, Albania-Macedonia BIT.

- e. The Municipality of Centar's failure to follow the decisions of the Transport Ministry and the Republic's resulting failure to enforce its own laws and constitution;

87. These decisions, and the processes through which they were made, were arbitrary and unlawful, constitute a violation of the Government's obligation to provide fair and equitable treatment to Amadeus, and are a violation of Article 3 of the BIT.

**C. The Republic of Macedonia has violated Article 4**

88. Article 4 of the BIT provides:

Investments by investors of either Contracting Party shall not be expropriated, nationalized or subjected to any other measure the effects of which would be tantamount to expropriation or nationalization in the territory of the other Contracting Party except for the public benefit and with prompt, adequate and effective compensation, and always under due process of law and without discrimination.<sup>55</sup>

89. Of chief importance to Amadeus when making its investment was that the Law and its Regulations established a fair and objective framework and procedure for procurement, development, maintenance, and ownership of property, designed to ensure that investors would receive a reasonable return on their investments and that Macedonia would not be able to unilaterally expropriate, directly or indirectly, Amadeus's property or investment, or to unilaterally change the procedure for procuring, developing, and maintaining property or an investment in Macedonia.

90. Here, Macedonia's actions were not for the purpose of the public benefit or any public purpose. Instead, the Municipality of Centar's actions, among others, in revoking the valid permit issued to Amadeus, annulling the urban plan, ignoring the decisions of the Constitutional

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<sup>55</sup> See CLA-1, Albania-Macedonia BIT.

Court and Administrative Court, and failure to follow the mandates of the Transport Ministry, directly and indirectly expropriated Amadeus's Investment. Moreover, Macedonia has never offered prompt, adequate, and effective compensation for its expropriation, as required by the BIT and international law.

### **VIII. Relief Requested**

91. For the foregoing reasons, Amadeus requests that the Arbitral Tribunal:
  - a. DECLARE that Macedonia has breached the BIT;
  - b. ORDER Macedonia to pay Amadeus damages for the loss caused to Amadeus by Macedonia's breaches in an amount currently estimated to total no less than \$110 million;
  - c. ORDER Macedonia to pay the costs incurred by Amadeus in relation to these proceedings, including all professional fees, attorneys' fees and disbursements, and the costs of the arbitration;
  - d. AWARD Amadeus pre-award and post-award interest at a rate and on a basis to be fixed by the Tribunal; and
  - e. ORDER such further or other relief as the Tribunal may deem appropriate.

92. Amadeus reserves the right to amend this Notice of Arbitration and Statement of Claim and assert additional claims as permitted by the ICSID Arbitration Rules and to request such additional or different relief as may be appropriate, including conservatory, injunctive or other relief.

### **IX. Required Copies and Lodging Fee**

93. In accordance with Rule 4 of the Institution Rules and the 2022 Schedule of Fees, this Notice of Arbitration is accompanied by a non-refundable fee of twenty-five thousand U.S. dollars.

July 17, 2023

Respectfully submitted,  
/s/Bart S. Fisher

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